IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION

OPTIMA EXERCISE, LLC, Plaintiff, v. FITNESS MASTER INC., Defendant.	Civil Action No. 2:16-cv-01285 **COMPLAINT FOR PATENT INFRINGEMENT** **(JURY TRIAL DEMANDED)**

COMPLAINT FOR PATENT INFRINGEMENT

1. Plaintiff, Optima Exercise, LLC. ("***Optima***" or "***Plaintiff***"), by and through its attorneys, makes and files this Complaint against Fitness Master, Inc. ("***FMI*** " or "***Defendant***"). In support of this Complaint, Plaintiff alleges and complains as follows:

PARTIES

2. Optima is a Texas Limited Liability Company.

3. Fitness Master, Inc. is a Texas Corporation with its principal place of business at 11419 Mathis Avenue, Suite 200, Farmers Banch, TX 75234.

4. FMI can be served with process through its registered agent: James Chen at 610 Old Campbell Rd. #108A, Richardson, TX 75080.

JURISDICTION AND VENUE

5. Upon information and belief, FMI directly and/or through its intermediaries ships, distributes, offers for sale, sells and/or advertises its products and services in this State via its interactive website www.fmiamerica.com.

6. By placing infringing products into the stream of commerce with the intent that they be sold, offered for sale, purchased, and used, FMI has transacted and continues to transact business in Texas.

7. Upon information and belief, Defendant solicits customers and has actual customers in this State and in the Eastern District of Texas. Some examples of FMI customers in Texas include, but are not limited to: Big Dee's Fitness Equipment in San Antonio, TX; Aegis Fitness Solutions in Austin, TX; Austin Fitness Rental in Austin, TX; Hest Fitness Products in Corpus Christi, TX; Fit Supply in Grand Prairie, TX; BSN Sports in Dallas, TX; Comm Fit in Dallas, TX; and Home Fitness Warehouse in Famers Branch, TX (http://www.fmiamerica.com/dealers.html).

8. FMI has committed and/or induced acts of patent infringement in Texas, including the Eastern District of Texas, and/or has placed infringing products into the stream of commerce through established distribution channels with the expectation that such products will be purchased and used by Texas residents, including residents in the Eastern District of Texas.

9. FMI has purposefully availed itself of the privileges and benefits of the laws of Texas and is therefore subject to the jurisdiction of this Court.

10. This Court has subject matter jurisdiction to hear the patent infringement claims under 28 U.S.C. § 1331.

11. Venue is proper in this District under 28 U.S.C. §§ 1391 and 1400 because, as described above, Defendant has infringed and continues to infringe Plaintiff's patent rights within the Eastern District of Texas, and this action arises out of transactions of that business and infringement.

GENERAL ALLEGATIONS

12. Plaintiff owns U.S. Patent No. 6,626,800 (the "***'800 Patent***"), titled "Method of Exercise Prescription and Evaluation.*"* A copy of the '800 Patent is attached as Exhibit A.

13. The '800 Patent was issued September 30, 2003.

14. Plaintiff is the owner, by assignment, of the '800 Patent, including all rights to sue for patent infringement.

15. As the owner of the '800 Patent, Optima has standing to sue and recover for all past, present, and future damages for infringement of the '800 Patent.

16. FMI has not been granted a license or any other rights to the '800 Patent.

17. The inventions of the '800 Patent resolve problems related to evaluating an exercise protocol. For example, the inventions include a method of presenting an exercise protocol to a user and evaluating the effectiveness of same.

CLAIM 1

(PATENT INFRINGEMENT)

18. Plaintiff realleges and incorporates by reference, as fully set forth herein, all other paragraphs.

19. Plaintiff has complied with 35 U.S.C. § 287.

20. Upon information and belief, Defendant, either alone or in conjunction with others, has infringed and continues to infringe, contribute to infringement, and/or induces infringement of the ’800 Patent by making, selling, and/or offering to sell, and/or causing others to use, methods and systems, including, but not limited to systems utilizing Fitnex T60 Treadmill (the “***Accused Products***”), that infringe one or more claims of the ‘800 Patent, including, but not limited to claim 1 of the ’800 Patent, and may include other claims of infringement to be identified through discovery.

21. By way of example and not as a limitation, Defendant’s Accused Products perform each and every element of the ’800 Patent’s method claim 1 as an act of indirect infringement because these products are especially made or especially adapted for use in infringing the ’800 patent as demonstrated below:

a. The Fitnex T60 Treadmill allows a user (the direct infringer) to perform an exercise method as required by claim 1;

b. The Fitnex T60 Treadmill provides a processor with a protocol generating algorithm;

c. The Fitnex T60 Treadmill provides an exercise device in communication with the processor as required by claim 1;

d. The Fitnex T60 Treadmill allows a user to input data into said processor as required by claim 1;

e. The Fitnex T60 Treadmill generates an exercise protocol according to said protocol generating algorithm and the user data as required by claim 1;

f. The Fitnex T60 Treadmill provides reviewing and allowing for modification of the exercise protocol as required by claim 1;

g. The Fitnex T60 Treadmill transfers the exercise protocol to the exercise device as required by claim 1;

h. The Fitnex T60 Treadmill allows a user to perform an exercise session on the exercise device as required by claim 1;

i. The Fitnex T60 Treadmill generates information regarding the exercise session as required by claim 1;

j. The Fitnex T60 Treadmill transfers the information to the processor as required by claim 1; and

k. The Fitnex T60 Treadmill allows review of the information as required by claim 1.

22. Defendant is liable for indirect infringement of the ’800 Patent by inducing and/or contributing to direct infringements of the ’800 Patent committed by end users of the Accused Products.

23. Defendant has further infringed, and continues to so infringe, by knowingly providing to its end users Accused Products which are especially made or especially adapted for infringement under the ’800 Patent, which are a material part of the infringement, and for which there are no substantial non-infringing uses.

24. Defendant’s infringing activities have injured and will continue to injure Plaintiff unless and until this Court enters an injunction prohibiting further infringement of the ’800 Patent.

25. Defendant's infringing activities have damaged Plaintiff, which is entitled to recover from Defendant damages in an amount subject to proof at trial, but in no event less than a reasonable royalty.

26. In particular, FMI engaged in and continues to engage in willful and knowing patent infringement because it has actual knowledge of the patent at least as early as April 8, 2016, when Defendant was given actual notice of the '800 Patent through Optima's licensing agent.

27. In particular, upon information and belief, FMI has generated significant sales revenue by incorporating the Plaintiff's technology in its product, easily exposing FMI to significant liability for its infringement of the '800 Patent.

28. From at least as early as April 8, 2016, when FMI was given actual notice of the '800 Patent, FMI induced infringement because it knew, or should have known, that its acts would cause patent infringement, and it acted with intent to encourage direct infringement by its users.

29. From at least as early as April 8, 2016, when FMI was given actual notice of the '800 Patent, Defendant contributed to direct infringement by its end users by knowing that the Accused Products and methods would be implemented by its end users; that its methods, components, system and Accused Products were especially made or especially adapted for a combination covered by one or more claims of the '800 Patent; that there are no substantial non-infringing uses; and the Accused Products are a material part of the infringement.

30. FMI has knowledge of the '800 Patent and is infringing despite such knowledge. The infringement has been and continues to be willful and deliberate.

31. Defendant's acts of infringement have damaged Plaintiff, and Plaintiff is entitled to recover from FMI the damages sustained as a result of FMI's wrongful acts in an amount subject to proof at trial, but in no event less than a reasonable royalty.

32. Defendant's infringing activities have injured and will continue to injure Plaintiff unless and until this Court enters an injunction prohibiting further infringement of the '800 Patent.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests that, after a trial, the Court enter judgment against Defendant as follows:

A. An entry of final judgment in favor of Plaintiff and against Defendant;

B. An award of damages adequate to compensate Plaintiff for the infringement that has occurred, but in no event less than a reasonable royalty as permitted by 35 U.S.C. § 284, together with prejudgment interest from the date the infringement began;

C. An injunction permanently prohibiting Defendant and all persons in active concert or participation with any of them from further acts of infringement of '800 Patent;

D. Treble damages as provided for under 35 U.S.C § 284 in view of the knowing, willful, and intentional nature of Defendant's acts;

E. Awarding Plaintiff its costs and expenses of this litigation, including its reasonable attorneys' fees and disbursements, pursuant to 35 U.S.C. § 285; and

F. Such other further relief that Plaintiff is entitled to under the law, and any other and further relief that this Court or a jury may deem just and proper.

DEMAND FOR JURY TRIAL

Plaintiff demands trial by jury on all claims and issues so triable.

Respectfully Submitted,

Dated: November 21, 2016 By: */s/ Joseph G. Pia*

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